

### REMARKS

The undersigned wishes to thank Examiner McAnulty for the courtesies extended during the interview of November 12, 2003. In view of that interview, independent claims 1, 9 and 14 have been amended. All of these claims now clearly identify that the dam is to contain the applied material with an upper surface of the railhead. This claimed language clearly distinguishes over United States Patent No. 3,147,822 to Watts, which discloses a space 40 defined on an underside of the rail head. Therefore, in view of the foregoing, it is believed that claims 1-23 and 27-28 are patentable over the prior art of record.

New claims 29 and 31 are directed to a wayside applicator bar for applying a friction material to a head of a rail. The bar includes a body and a flow passage defined in the body for the material to flow therethrough. The flow passageway defines a stationary exit end and includes an elastomeric member forming a portion of the stationary exit end. The elastomeric member is adapted to contain the material for depositing on an outside surface of the head of the rail. This arrangement is clearly shown in the figure 7 of the present invention. Also see the specification, page 8, line 3 to page 9, line 12. New claims 30 and 32 depend from claims 29 and 31, respectively, and identify that the elastomeric seal is rubber.

No other prior art of record teaches or suggests the use of an elastomeric member adjacent a stationary exit end of a rail applicator. U.S. Patent No. 3,147,822 to Watts (hereinafter the Watts patent) discloses the prior art metallic-type lubricating arrangements. U.S. Patent No. 2,489,182 to Huck (hereinafter the Huck patent) does disclose elastomeric members 52 and 56. However, the system discloses a dynamic lubricating device in which a portion of the applicator bar is moved by the rail wheels.

In view of the foregoing, it is believed that new claims 29-32 are patentable over the prior art of record and are in condition for allowance.

Finally, claim 14 has been amended to correct a typographical error. It is believed that claim 14, as amended, is patentable over the prior art of record.

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**CONCLUSION**

In view of the foregoing, it is believed that pending claims 1-23 and 27-28 and new claims 29-32 are patentable over the prior art of record in view of the above-identified Amendment. Reconsideration of the rejections and objections is respectfully requested.

Respectfully submitted,

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